

REMARKS / ARGUMENTS

Claims 1-16, 28-36, 61 and 62 are pending in the present application. Claims 1, 16, 28, 36, 61 and 62 are independent. Claims 1-15, 36, 61 and 62 are withdrawn from consideration.

Claims 16 and 28 have been amended.

Claims 16 and 28-33 were rejected under the doctrine of obviousness-type double patenting as being unpatentable over claims 1, 3-4 and 11 of U.S. Patent No. 6,629,953. Applicants shall provide a suitable response upon allowance of at least one claim over the cited art.

Claims 16, 28-30 and 33 were rejected as being anticipated by Sokolik (U.S. Patent No. 3,320,957). Claims 28 and 31-32 were rejected as being anticipated by Fearnot (U.S. Patent No. 5,100,423). Claims 34 and 35 were rejected as being unpatentable over Sokolik.

Discussion

Amended independent claims 16 and 28 are allowable over Sokolik and Fearnot since Sokolik and Fearnot do not disclose or suggest "the cage being releasable so that the cage may be left within the patient." Sokolik and Fearnot disclose devices which are completely removed from the patient rather than providing a cage which may be released and left within the patient as claimed. Support for this limitation is clearly described in the specification relating to the elected species in addition to support provided from non-elected method claim 62 which recites "releasing the cage" and "removing the device while leaving the cage within the patient."


Dependent claims 29-35 are allowable since they depend from allowable independent claim 28.

CONCLUSION

Applicant submits that all claims are in condition for allowance and an action to that end is respectfully requested. If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 415-412-3322.

Respectfully submitted,

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Date


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